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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/425,027	10/25/99	SHIMIZU	T 104610

IM22/0828

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EXAMINER	
ZIRKER,D	
ART UNIT	PAPER NUMBER
1771	8

DATE MAILED: 08/28/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	Examiner	Group Art Unit	

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☑ Claim(s) 1-6 is/are pending in the application.

Of the above claim(s) 4-6 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☑ Claim(s) 1-3 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☑ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. § 119 (a)-(d)

☑ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 11 9(a)-(d).

☑ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☑ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☑ Notice of Reference(s) Cited, PTO-892

☑ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Interview Summary, PTO-413

☐ Notice of Informal Patent Application, PTO-152

☐ Other _____

Office Acti n Summary

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-3, drawn to a formed lining for a vehicle, classified in Class 428, subclass 317.1.

II. Claims 4-6, drawn to a method for manufacturing a formed lining for a vehicle, classified in Class 156, subclass 60+.

2. The inventions are distinct, each from the other because of the following reasons:

3. Inventions Group II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by a materially different process such as by using a separate heat source to melt the web-like hot melt adhesive of the top cover member.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Brian Diekhoff on August 22, 2001 a provisional election was made with traverse to

prosecute the invention of Group I, claims 1-3. Affirmation of this election must be made by applicant in replying to this Office action. Claims 4-6 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> 8. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-3 are rejected under 35 U.S.C. § 102(a) as being anticipated by applicant's admission regarding the prior art on page 1 of the specification in the last four lines of the first paragraph related to the "Description of Related Art". More particularly, applicant admits that it is known in the art

to bond a top cover member 30 to a multilayer base member 20 by use of a hot melt adhesive film 5 to form a formed lining for a vehicle. Applicant does not appear to appreciate that his claimed invention reads upon a final product, as opposed to an intermediate product in which the top cover member and top and base member each exist, each having a different type of hot melt adhesive layer coated on one of their outer surfaces. When the base member is bonded to the top cover member, however, the two hot melt adhesive layers are presumably activated by heating and contact each other to bond the two elements together. When this occurs and after the resultant product is cooled, the two hot melt adhesive layers have merged to form a single fused hot melt adhesive layer that is for all ~~practical~~ purposes identical to that utilized by the prior art. With respect to the dependent claims, applicant admits that it is well known to use a cushion layer to comprise the top cover member and as regards the air permeability of the web-like hot melt adhesive layer of claim 3, this property for reasons stated above no longer exists when the two elements have been fused into the claimed laminated structure.

10. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth

> in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 1-3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over applicant's admissions on page 1 of the specification, discussed above. As indicated above, the Examiner believes that the admission anticipates the claimed invention. However, if for any reason such as minor differences in the resulting structures that may come into existence, the Examiner believes that what differences that may exist are each believed to be, if not expressly or inherently disclosed, obvious modifications to one of ordinary skill in the art, in the absence of unexpected results.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note also Kozlowski, Witzke et al., Tsubone, Ozeki et al. and Slaven.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be

reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

August 24, 2001

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP ~~1300~~ 1700

Daniel Zirker